



House of Representatives

General Assembly

File No. 453

February Session, 2014

Substitute House Bill No. 5575

House of Representatives, April 8, 2014

The Committee on Commerce reported through REP. PERONE of the 137th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROMOTION OF THE COMMERCIAL USE OF THE STATE'S DEEP WATER PORTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2016*) (a) There is hereby
2 established and created a body politic and corporate, constituting a
3 public instrumentality and political subdivision of the state of
4 Connecticut established and created for the performance of an
5 essential public and governmental function, to be known as the
6 Connecticut Port Authority. The authority shall not be construed to be
7 a department, institution or agency of the state.

8 (b) The powers of the authority shall be vested in and exercised by a
9 board of directors, which shall consist of seven voting members,
10 appointed by the Governor with the advice and consent of both houses
11 of the General Assembly. The Governor shall appoint the initial
12 members to the board as follows: (1) Three members for two years; and
13 (2) four members for four years, one of whom shall reside in
14 Bridgeport, New Haven or New London. Thereafter, the Governor

15 shall appoint members of the board to succeed such appointees whose
16 terms expire and each member so appointed shall hold office for a
17 period of four years from July first in the year of his or her
18 appointment. The Commissioner of Energy and Environmental
19 Protection, the Commissioner of Transportation and the Commissioner
20 of Economic and Community Development shall each serve as
21 nonvoting, ex-officio members of the board. Appointed members shall
22 have business and management experience and shall include
23 individuals who have experience and expertise in one or more of the
24 following areas: (A) International trade, (B) marine transportation, (C)
25 finance, and (D) economic development.

26 (c) Appointed members of the board of directors may not designate
27 a representative to perform in their absence their respective duties
28 under this section. Any appointed member who fails to attend three
29 consecutive meetings of the board or who fails to attend fifty per cent
30 of all meetings of the board held during any calendar year shall be
31 deemed to have resigned from the board. Any vacancy occurring other
32 than by expiration of term shall be filled in the same manner as the
33 original appointment for the balance of the unexpired term.

34 (d) Each member of the board of directors shall be entitled to
35 reimbursement for such director's actual and necessary expenses
36 incurred during the performance of such member's official duties.

37 (e) Members may engage in private employment, or in a profession
38 or business, subject to any applicable laws, rules and regulations of the
39 state or federal government regarding official ethics or conflict of
40 interest.

41 (f) Four members of the board of directors shall constitute a quorum
42 for the transaction of any business or the exercise of any power of the
43 authority. For the transaction of any business or the exercise of any
44 power of the authority, and, except as otherwise provided in this
45 section, the authority may act by a majority of the members present at
46 any meeting at which a quorum is in attendance.

47 (g) The board may delegate to four or more members such board
48 powers and duties as it may deem necessary and proper in conformity
49 with the provisions of this section and its bylaws.

50 (h) The appointing authority for any member of the board of
51 directors may remove such director for inefficiency, neglect of duty or
52 misconduct in office after giving the member a copy of the charges
53 against the member and an opportunity to be heard, in person or by
54 counsel, in the member's defense, upon not less than ten days' notice. If
55 any member shall be so removed, the appointing authority for such
56 member shall file in the office of the Secretary of the State a complete
57 statement of charges made against such member and the appointing
58 authority's findings on such statement of charges, together with a
59 complete record of the proceedings.

60 (i) The authority shall continue as long as it has bonds or other
61 obligations outstanding and until its existence is terminated by law.
62 Upon the termination of the existence of the authority, all its rights and
63 properties shall pass to and be vested in the state of Connecticut.

64 (j) Notwithstanding any provision of the general statutes, it shall not
65 constitute a conflict of interest for a trustee, director, partner or officer
66 of any person, firm or corporation, or any individual having a financial
67 interest in a person, firm or corporation, to serve as a director of the
68 authority, provided such director shall abstain from deliberation,
69 action or vote by the board in specific respect to such person, firm or
70 corporation.

71 (k) The Governor shall appoint the chairperson of the board, who
72 shall serve for a term of four years. The board shall elect from its
73 members a vice-chairperson and such other officers as it deems
74 necessary. Vacancies among any officers shall be filled not later than
75 thirty days following the occurrence of such vacancy in the same
76 manner as the original selection. Said board shall establish bylaws to
77 govern its procedures and shall appoint such committees and advisory
78 boards as may be convenient or necessary in the transaction of its
79 business.

80 (l) The initial members of the board may begin service immediately
81 upon appointment, but shall not serve past the sixth Wednesday of the
82 next regular session of the General Assembly unless qualified in the
83 manner provided in section 4-7 of the general statutes. Thereafter, all
84 appointments shall be made with the advice and consent of both
85 houses of the General Assembly, in the manner provided in section 4-
86 19 of the general statutes.

87 (m) The board of directors of the authority shall appoint an
88 executive director who shall not be a member of the board and who
89 shall serve at the pleasure of the board and receive such compensation
90 as shall be fixed by the board. The executive director shall have
91 extensive experience in the development and management of multi-
92 use port operations. The executive director shall be the chief
93 administrative officer of the authority and shall direct and supervise
94 administrative affairs and technical activities in accordance with the
95 directives of the board. The executive director shall approve all
96 accounts for salaries, allowable expenses of the authority or of any
97 employee or consultant thereof, and expenses incidental to the
98 operation of the authority. The executive director shall perform such
99 other duties as may be directed by the board in carrying out the
100 purposes of sections 1 to 4, inclusive, of this act. The executive director
101 shall be exempt from the classified service. The executive director shall
102 attend all meetings of the board, keep a record of the proceedings of
103 the authority and shall maintain and be custodian of all books,
104 documents and papers filed with the authority and of the minute book
105 or journal of the authority and of its official seal. The executive director
106 may cause copies to be made of all minutes and other records and
107 documents of the authority and may give certificates under the official
108 seal of the authority to the effect that such copies are true copies, and
109 all persons dealing with the authority may rely upon such certificates.

110 Sec. 2. (NEW) (*Effective July 1, 2016*) (a) The purposes of the
111 Connecticut Port Authority shall be to coordinate port development,
112 with a focus on private and public investments, pursue federal and
113 state funds for dredging and other infrastructure improvements to

114 increase cargo movement through Connecticut ports, market the
115 advantages of such ports to the domestic and international shipping
116 industry, coordinate the planning and funding of capital projects
117 promoting the development of such ports and develop strategic
118 entrepreneurial initiatives that may be available to the state, and for
119 such purposes the authority is authorized and empowered to:

120 (1) Have perpetual succession as a body politic and corporate and to
121 adopt bylaws for the regulation of its affairs and the conduct of its
122 business;

123 (2) Adopt an official seal and alter the same at pleasure;

124 (3) Receive and accept aid or contributions from any source of
125 money, property, labor or other things of value, to be held, used and
126 applied to carry out the purposes of sections 1 to 4, inclusive, of this
127 act, subject to such conditions upon which such grants and
128 contributions may be made, including, but not limited to, gifts or
129 grants from any department, agency or instrumentality of the United
130 States or this state for any purpose consistent with sections 1 to 4,
131 inclusive, of this act;

132 (4) Enter into agreements with any department, agency, office or
133 instrumentality of the United States or this state, including the office of
134 the State Treasurer, to carry out the purposes of sections 1 to 4,
135 inclusive, of this act;

136 (5) Borrow money or secure credit on a temporary, short-term,
137 interim or long-term basis to the extent permitted under sections 1 to 4,
138 inclusive, of this act;

139 (6) Issue bonds, bond anticipation notes and other obligations of the
140 authority to the extent permitted under sections 1 to 4, inclusive, of
141 this act, to fund and refund the same and provide for the rights of the
142 holders thereof, and to secure the same by pledge of revenues, notes
143 and mortgages of others;

144 (7) Invest in, acquire, lease, purchase, own, manage, hold and

145 dispose of real property, including, but not limited to, any state pier
146 real property under its control, and lease, convey or deal in or enter
147 into agreements with respect to such property on any terms necessary
148 or incidental to carrying out the purposes of sections 1 to 4, inclusive,
149 of this act, provided such transactions shall not be subject to approval,
150 review or regulation by any state agency pursuant to title 4b of the
151 general statutes or any other provision of the general statutes.
152 Notwithstanding this subdivision, the authority shall not convey fee
153 simple ownership in any land under its jurisdiction and control
154 without the approval of the State Properties Review Board and the
155 Attorney General;

156 (8) Employ such assistants, agents and other employees, including a
157 marketing manager with experience (A) in port market development
158 and promotion, and (B) working with vessel operators, railroads, the
159 shipping industry and the trucking industry;

160 (9) Engage consultants and such other independent professionals as
161 may be necessary or desirable to carry out its purposes in accordance
162 with sections 1 to 4, inclusive, of this act and, except for such
163 employees who are covered by collective bargaining agreements, to fix
164 their compensation, and to provide technical assistance, as provided in
165 sections 1 to 4, inclusive, of this act;

166 (10) To maintain an office at such place or places as it may
167 designate;

168 (11) To sue and be sued in its own name, and plead and be
169 impleaded;

170 (12) To mortgage any property of the authority for the benefit of the
171 holders of obligations issued by the authority;

172 (13) Make and enter into all contracts and agreements necessary or
173 incidental to the performance of its duties and the execution of its
174 powers under sections 1 to 4, inclusive, of this act, including, but not
175 limited to, the granting of leasehold interests, concession, access and

176 development rights and privileges, supplier, vendor, contractor and
177 consultant contracts;

178 (14) Procure insurance against any liability or loss in connection
179 with its property and other assets, in such amounts and from such
180 insurers as it deems desirable and to procure insurance for employees;

181 (15) Account for and audit funds of the authority and funds of any
182 recipients of funds from the authority; and

183 (16) Do all acts and things necessary or convenient to carry out the
184 purposes of sections 1 to 4, inclusive, of this act and chapter 242 of the
185 general statutes and the powers expressly granted by sections 1 to 4,
186 inclusive, of this act.

187 (b) To serve its purposes, the authority shall:

188 (1) Develop an organizational and management structure that will
189 best accomplish the goals of the authority concerning Connecticut
190 ports;

191 (2) Create a code of conduct for the board of directors of the
192 authority consistent with part I of chapter 10 of the general statutes;

193 (3) On or before December fifteenth, annually, report, in accordance
194 with the provisions of section 11-4a of the general statutes, to the
195 Governor and the joint standing committees of the General Assembly
196 having cognizance of matters relating to transportation, commerce and
197 the environment, summarizing the authority's activities, disclosing
198 operating and financial statements and recommending legislation to
199 promote the authority's purposes;

200 (4) Adopt rules for the conduct of its business which shall not be
201 considered regulations, as defined in subdivision (13) of section 4-166
202 of the general statutes.

203 Sec. 3. (NEW) (*Effective July 1, 2016*) The board of directors of the
204 Connecticut Port Authority shall adopt written procedures, in

205 accordance with the provisions of section 1-121 of the general statutes,
206 for: (1) Adopting an annual budget and plan of operations, including a
207 requirement of board approval before the budget or plan may take
208 effect; (2) hiring, dismissing, promoting and compensating employees
209 of the authority, including an affirmative action policy and a
210 requirement of board approval before a position may be created or a
211 vacancy filled; (3) acquiring real and personal property and personal
212 services, including a requirement of board approval for any
213 nonbudgeted expenditure in excess of five thousand dollars; (4)
214 contracting for financial, legal and other professional services,
215 including a requirement that the authority solicit proposals at least
216 once every three years for each such service which it uses; (5)
217 awarding loans, grants and other financial assistance, including
218 eligibility criteria, the application process and the role played by the
219 authority's staff and board of directors; and (6) the use of surplus
220 funds to the extent authorized under sections 1 to 4, inclusive, of this
221 act or other provision of the general statutes.

222 Sec. 4. (NEW) (*Effective July 1, 2016*) The board of directors of the
223 Connecticut Port Authority shall submit, in accordance with section
224 11-4a of the general statutes, to the joint standing committees of the
225 General Assembly having cognizance of matters relating to
226 appropriations, commerce, the environment and transportation a copy
227 of each audit of the authority conducted by an independent auditing
228 firm, not later than seven days after the audit is received by said board
229 of directors.

230 Sec. 5. Subdivision (12) of section 1-79 of the 2014 supplement to the
231 general statutes is repealed and the following is substituted in lieu
232 thereof (*Effective July 1, 2016*):

233 (12) "Quasi-public agency" means Connecticut Innovations,
234 Incorporated, and the Connecticut Health and Education Facilities
235 Authority, Connecticut Higher Education Supplemental Loan
236 Authority, Connecticut Housing Finance Authority, State Housing
237 Authority, Connecticut Resources Recovery Authority, Capital Region

238 Development Authority, Connecticut Lottery Corporation, Connecticut
239 Airport Authority, Health Information Technology Exchange of
240 Connecticut, Connecticut Health Insurance Exchange, [and] Clean
241 Energy Finance and Investment Authority and Connecticut Port
242 Authority.

243 Sec. 6. Subdivision (1) of section 1-120 of the general statutes is
244 repealed and the following is substituted in lieu thereof (*Effective July*
245 *1, 2016*):

246 (1) "Quasi-public agency" means Connecticut Innovations,
247 Incorporated, and the Connecticut Health and Educational Facilities
248 Authority, Connecticut Higher Education Supplemental Loan
249 Authority, Connecticut Housing Finance Authority, Connecticut
250 Housing Authority, Connecticut Resources Recovery Authority,
251 Capital Region Development Authority, Connecticut Lottery
252 Corporation, Connecticut Airport Authority, Health Information
253 Technology Exchange of Connecticut, Connecticut Health Insurance
254 Exchange, [and] Clean Energy Finance and Investment Authority and
255 Connecticut Port Authority.

256 Sec. 7. Section 1-124 of the general statutes is repealed and the
257 following is substituted in lieu thereof (*Effective July 1, 2016*):

258 (a) Connecticut Innovations, Incorporated, the Connecticut Health
259 and Educational Facilities Authority, the Connecticut Higher
260 Education Supplemental Loan Authority, the Connecticut Housing
261 Finance Authority, the Connecticut Housing Authority, the
262 Connecticut Resources Recovery Authority, the Health Information
263 Technology Exchange of Connecticut, the Connecticut Airport
264 Authority, the Capital Region Development Authority, the
265 Connecticut Health Insurance Exchange, [and] the Clean Energy
266 Finance and Investment Authority and the Connecticut Port Authority
267 shall not borrow any money or issue any bonds or notes which are
268 guaranteed by the state of Connecticut or for which there is a capital
269 reserve fund of any kind which is in any way contributed to or
270 guaranteed by the state of Connecticut until and unless such

271 borrowing or issuance is approved by the State Treasurer or the
272 Deputy State Treasurer appointed pursuant to section 3-12. The
273 approval of the State Treasurer or said deputy shall be based on
274 documentation provided by the authority that it has sufficient
275 revenues to (1) pay the principal of and interest on the bonds and notes
276 issued, (2) establish, increase and maintain any reserves deemed by the
277 authority to be advisable to secure the payment of the principal of and
278 interest on such bonds and notes, (3) pay the cost of maintaining,
279 servicing and properly insuring the purpose for which the proceeds of
280 the bonds and notes have been issued, if applicable, and (4) pay such
281 other costs as may be required.

282 (b) To the extent Connecticut Innovations, Incorporated, and the
283 Connecticut Higher Education Supplemental Loan Authority,
284 Connecticut Housing Finance Authority, Connecticut Housing
285 Authority, Connecticut Resources Recovery Authority, Connecticut
286 Health and Educational Facilities Authority, the Health Information
287 Technology Exchange of Connecticut, the Connecticut Airport
288 Authority, the Capital Region Development Authority, the
289 Connecticut Health Insurance Exchange, [or] the Clean Energy Finance
290 and Investment Authority or Connecticut Port Authority is permitted
291 by statute and determines to exercise any power to moderate interest
292 rate fluctuations or enter into any investment or program of
293 investment or contract respecting interest rates, currency, cash flow or
294 other similar agreement, including, but not limited to, interest rate or
295 currency swap agreements, the effect of which is to subject a capital
296 reserve fund which is in any way contributed to or guaranteed by the
297 state of Connecticut, to potential liability, such determination shall not
298 be effective until and unless the State Treasurer or his or her deputy
299 appointed pursuant to section 3-12 has approved such agreement or
300 agreements. The approval of the State Treasurer or his or her deputy
301 shall be based on documentation provided by the authority that it has
302 sufficient revenues to meet the financial obligations associated with the
303 agreement or agreements.

304 Sec. 8. Section 1-125 of the general statutes is repealed and the

305 following is substituted in lieu thereof (*Effective July 1, 2016*):

306 The directors, officers and employees of Connecticut Innovations,
307 Incorporated, and the Connecticut Higher Education Supplemental
308 Loan Authority, Connecticut Housing Finance Authority, Connecticut
309 Housing Authority, Connecticut Resources Recovery Authority,
310 including ad hoc members of the Connecticut Resources Recovery
311 Authority, Connecticut Health and Educational Facilities Authority,
312 Capital Region Development Authority, the Health Information
313 Technology Exchange of Connecticut, Connecticut Airport Authority,
314 Connecticut Lottery Corporation, Connecticut Health Insurance
315 Exchange, [and] the Clean Energy Finance and Investment Authority
316 and Connecticut Port Authority and any person executing the bonds or
317 notes of the agency shall not be liable personally on such bonds or
318 notes or be subject to any personal liability or accountability by reason
319 of the issuance thereof, nor shall any director or employee of the
320 agency, including ad hoc members of the Connecticut Resources
321 Recovery Authority, be personally liable for damage or injury, not
322 wanton, reckless, wilful or malicious, caused in the performance of his
323 or her duties and within the scope of his or her employment or
324 appointment as such director, officer or employee, including ad hoc
325 members of the Connecticut Resources Recovery Authority. The
326 agency shall protect, save harmless and indemnify its directors,
327 officers or employees, including ad hoc members of the Connecticut
328 Resources Recovery Authority, from financial loss and expense,
329 including legal fees and costs, if any, arising out of any claim, demand,
330 suit or judgment by reason of alleged negligence or alleged
331 deprivation of any person's civil rights or any other act or omission
332 resulting in damage or injury, if the director, officer or employee,
333 including ad hoc members of the Connecticut Resources Recovery
334 Authority, is found to have been acting in the discharge of his or her
335 duties or within the scope of his or her employment and such act or
336 omission is found not to have been wanton, reckless, wilful or
337 malicious.

338 Sec. 9. Section 13b-51b of the general statutes is repealed and the

339 following is substituted in lieu thereof (*Effective July 1, 2016*):

340 There shall be, within the Department of Transportation, a State
341 Maritime Office which shall: (1) Be responsible for maritime
342 operations, including the State Pier in New London, the Connecticut
343 River ferries and such other operational responsibilities as shall be
344 assigned to it; (2) serve as the Governor's principal maritime policy
345 advisor; (3) serve as the liaison between the state and federal, local and
346 private entities involved in maritime policy activities; (4) coordinate
347 the state's maritime policy activities; (5) encourage year-round use of
348 water-related industries; (6) work with the Department of Economic
349 and Community Development and other state, local and private
350 entities to maximize the economic potential of Connecticut's ports and
351 other maritime resources; (7) conduct necessary research and planning
352 activities; (8) assess potential state investments in ports and other
353 maritime facilities; (9) [provide staff support to the Connecticut
354 Maritime Commission, created in section 13b-51a; (10)] provide staff
355 support to the Connecticut Pilot Commission created by section 15-13c;
356 and [(11)] (10) undertake such other responsibilities as may be
357 assigned to it by the commissioner or the Governor.

358 Sec. 10. Section 13b-55a of the general statutes is repealed and the
359 following is substituted in lieu thereof (*Effective July 1, 2016*):

360 (a) In addition to municipal requests for a grant-in-aid pursuant to
361 section 13b-57, harbor improvement projects may be initiated by the
362 Commissioner of Transportation on behalf of the state or for the state
363 on behalf of the federal government. Recommendations on the
364 prioritization or inclusion of projects shall be submitted to the
365 commissioner by the Connecticut [Maritime Commission] Port
366 Authority. The department shall contract for the provision of goods
367 and services to harbors and waterways for such improvements, and
368 shall provide the funding required under such contracts, except that
369 the commissioner may enter into agreements with other state agencies
370 or municipalities for such agencies or municipalities to provide the
371 funding for any of such contracts. The department shall administer all

372 contracts entered into under this section.

373 (b) All contracts are subject to final negotiation of the scope and
374 budget for a given project. Contracting periods may vary depending
375 on each project. Payments shall be made on a reimbursement basis for
376 deliverables completed no later than the dates of service of an executed
377 contract. Appropriate back-up information shall be included with each
378 payment request indicating that services have been rendered. The
379 department may elect to provide part or all of the funds necessary as
380 an upfront payment, provided funds are held in a separate, noninterest
381 bearing account and are expended not later than sixty days after such
382 funds are provided.

383 (c) Harbor improvement projects include the preparation of plans,
384 studies and construction for the alteration and improvement of various
385 state, municipal and other properties in or adjacent to the waters of the
386 state, for the purpose of improving the economy and infrastructure of
387 the state.

388 Sec. 11. Subdivision (2) of subsection (b) of section 12-587 of the 2014
389 supplement to the general statutes is repealed and the following is
390 substituted in lieu thereof (*Effective from passage*):

391 (2) Gross earnings derived from the first sale of the following
392 petroleum products within this state shall be exempt from tax: (A) Any
393 petroleum products sold for exportation from this state for sale or use
394 outside this state; (B) the product designated by the American Society
395 for Testing and Materials as "Specification for Heating Oil D396-69",
396 commonly known as number 2 heating oil, to be used exclusively for
397 heating purposes or to be used in a commercial fishing vessel, which
398 vessel qualifies for an exemption pursuant to section 12-412; (C)
399 kerosene, commonly known as number 1 oil, to be used exclusively for
400 heating purposes, provided delivery is of both number 1 and number 2
401 oil, and via a truck with a metered delivery ticket to a residential
402 dwelling or to a centrally metered system serving a group of
403 residential dwellings; (D) the product identified as propane gas, to be
404 used exclusively for heating purposes; (E) bunker fuel oil, intermediate

405 fuel, marine diesel oil and marine gas oil to be used in any vessel (i)
406 having a displacement exceeding four thousand dead weight tons, or
407 (ii) primarily engaged in interstate commerce; (F) for any first sale
408 occurring prior to July 1, 2008, propane gas to be used as a fuel for a
409 motor vehicle; (G) for any first sale occurring on or after July 1, 2002,
410 grade number 6 fuel oil, as defined in regulations adopted pursuant to
411 section 16a-22c, to be used exclusively by a company which, in
412 accordance with census data contained in the Standard Industrial
413 Classification Manual, United States Office of Management and
414 Budget, 1987 edition, is included in code classifications 2000 to 3999,
415 inclusive, or in Sector 31, 32 or 33 in the North American Industrial
416 Classification System United States Manual, United States Office of
417 Management and Budget, 1997 edition; (H) for any first sale occurring
418 on or after July 1, 2002, number 2 heating oil to be used exclusively in a
419 vessel primarily engaged in interstate commerce, which vessel
420 qualifies for an exemption under section 12-412; (I) for any first sale
421 occurring on or after July 1, 2000, paraffin or microcrystalline waxes;
422 (J) for any first sale occurring prior to July 1, 2008, petroleum products
423 to be used as a fuel for a fuel cell, as defined in subdivision (113) of
424 section 12-412; (K) a commercial heating oil blend containing not less
425 than ten per cent of alternative fuels derived from agricultural
426 produce, food waste, waste vegetable oil or municipal solid waste,
427 including, but not limited to, biodiesel or low sulfur dyed diesel fuel;
428 (L) for any first sale occurring on or after July 1, 2007, diesel fuel other
429 than diesel fuel to be used in an electric generating facility to generate
430 electricity; (M) for any first sale occurring on or after July 1, 2013,
431 cosmetic grade mineral oil; or (N) propane gas to be used as a fuel for a
432 school bus.

433 Sec. 12. Subdivision (3) of subsection (a) of section 12-458 of the
434 general statutes is repealed and the following is substituted in lieu
435 thereof (*Effective from passage*):

436 (3) Said tax shall not be payable on such fuel as may have been (A)
437 sold to the United States, (B) sold to a municipality of this state, (i) for
438 use by any contractor performing a service for such municipality in

439 accordance with a contract, provided such fuel is used by such
440 contractor exclusively for the purposes of and in accordance with such
441 contract, or (ii) for use exclusively in a school bus, as defined in section
442 14-275, (C) sold to a municipality of this state, a transit district of this
443 state, or this state, at other than a retail outlet, for governmental
444 purposes and for use in vehicles owned and operated, or leased and
445 operated by such municipality, such transit district or this state, (D)
446 sold to a person licensed as a distributor in this state under section 12-
447 456, (E) transferred from storage within this state to some point
448 without this state, (F) sold to the holder of a permit issued under
449 section 12-458a for sale or use without this state, (G) sold to the holder
450 of a permit issued under subdivision (63) of section 12-412, provided
451 (i) such fuel is not used in motor vehicles registered or required to be
452 registered to operate upon the public highways of this state, unless
453 such fuel is used in motor vehicles registered exclusively for farming
454 purposes, (ii) such fuel is not delivered, upon such sale, to a tank in
455 which such person keeps fuel for personal and farm use, and (iii) a
456 statement, prescribed as to form by the Commissioner of Revenue
457 Services and bearing notice to the effect that false statements made
458 under this section are punishable, that such fuel is used exclusively for
459 farming purposes, is submitted by such person to the distributor, (H)
460 sold exclusively to furnish power for an industrial plant in the actual
461 fabrication of finished products to be sold, or for the fishing industry,
462 (I) sold exclusively for heating purposes, (J) sold exclusively to furnish
463 gas, water, steam or electricity, if delivered to consumers through
464 mains, lines or pipes, (K) sold to the owner or operator of an aircraft, as
465 defined in section 15-34, exclusively for aviation purposes, provided (i)
466 for purposes of this subdivision, "aviation purposes" means for the
467 purpose of powering an aircraft or an aircraft engine, (ii) such fuel is
468 delivered, upon such sale, to a tank in which fuel is kept exclusively
469 for aviation purposes, and (iii) a statement, prescribed as to form by
470 the Commissioner of Revenue Services and bearing notice to the effect
471 that false statements made under this section are punishable, that such
472 fuel is used exclusively for aviation purposes, is submitted by such
473 person to the distributor, (L) sold to a dealer who is licensed under

474 section 12-462 and whose place of business is located upon an
475 established airport within this state, [or] (M) diesel fuel sold
476 exclusively for use in portable power system generators that are larger
477 than one hundred fifty kilowatts, or (N) sold for use in any vessel (i)
478 having a displacement exceeding four thousand dead weight tons, or
479 (ii) primarily engaged in interstate commerce.

480 Sec. 13. (NEW) (*Effective July 1, 2014*) (a) There is established an
481 Office of Maritime Development within the Department of Economic
482 and Community Development for administrative purposes only. The
483 Office of Maritime Development shall promote and coordinate, in
484 consultation with the Commissioner of Transportation and the
485 Commissioner of Energy and Environmental Protection, the operations
486 of the Connecticut Port Authority established pursuant to sections 1 to
487 4, inclusive, of this act.

488 (b) The Governor, in consultation with the Commissioner of
489 Economic and Community Development, the Commissioner of
490 Transportation and the Commissioner of Energy and Environmental
491 Protection, shall, within available appropriations, appoint an executive
492 director to manage the daily activities and duties of the Office of
493 Maritime Development. The executive director shall have the
494 necessary qualifications to perform the duties of said office, including,
495 but not limited to, having experience in the development and
496 management of multi-use port operations, international trade,
497 maritime transportation, finance and economic development. Within
498 available appropriations, the executive director shall: (1) Appoint,
499 employ and remove such assistants, employees and personnel as
500 deemed necessary for the efficient and effective administration of the
501 activities of the office; (2) develop a plan to transition the maritime
502 functions of the Department of Transportation to the Connecticut Port
503 Authority; (3) review and make recommendations for state policies
504 that affect Connecticut's ports; (4) coordinate state, regional and local
505 efforts to encourage the growth of Connecticut's ports; (5) develop a
506 plan to eliminate the Office of Maritime Development and transition
507 the functions of the Office of Maritime Development and the

508 Connecticut Maritime Commission to the Connecticut Port Authority
 509 after the establishment of the Connecticut Port Authority; (6) identify,
 510 in collaboration with the Commissioner of Economic and Community
 511 Development, the Commissioner of Transportation and the
 512 Commissioner of Energy and Environmental Protection, qualified
 513 candidates for the board of directors of the Connecticut Port Authority
 514 and the executive director of the Connecticut Port Authority; (7)
 515 develop a plan concerning the bonding authority of the Connecticut
 516 Port Authority; and (8) prepare and submit, on or before January 1,
 517 2016, a report of activities, findings and recommendations concerning
 518 the establishment of the Connecticut Port Authority to the Governor
 519 and the joint standing committees of the General Assembly having
 520 cognizance of matters relating to commerce, transportation and the
 521 environment, in accordance with the provisions of section 11-4a of the
 522 general statutes.

523 Sec. 14. Section 13b-51a of the general statutes is repealed. (*Effective*
 524 *July 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	New section
Sec. 2	<i>July 1, 2016</i>	New section
Sec. 3	<i>July 1, 2016</i>	New section
Sec. 4	<i>July 1, 2016</i>	New section
Sec. 5	<i>July 1, 2016</i>	1-79(12)
Sec. 6	<i>July 1, 2016</i>	1-120(1)
Sec. 7	<i>July 1, 2016</i>	1-124
Sec. 8	<i>July 1, 2016</i>	1-125
Sec. 9	<i>July 1, 2016</i>	13b-51b
Sec. 10	<i>July 1, 2016</i>	13b-55a
Sec. 11	<i>from passage</i>	12-587(b)(2)
Sec. 12	<i>from passage</i>	12-458(a)(3)
Sec. 13	<i>July 1, 2014</i>	New section
Sec. 14	<i>July 1, 2016</i>	Repealer section

CE Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Department of Revenue Services	GF - Revenue Loss	Less than 5,000	Less than 50,000
Department of Revenue Services	TF - Revenue Loss	Up to 10,500	Up to 125,000
Department of Economic & Community Development	GF - Cost	None	At least 161,000
State Comptroller - Fringe Benefits ¹	GF - Cost	None	At least 59,023

Municipal Impact: None

Explanation

The bill, establishes the Connecticut Port Authority (the "authority"). Establishing the authority has no state impact because (1) the authority under the bill is a quasi-public agency financially autonomous from the state and (2) the bill does not provide any state appropriation or bond authorization for the authority. The bill allows the authority to generate operating and capital funding through various sources, however the bill does not specify how the administration of the authority will be funded. It is presumed that all capital projects will be financed through the authority's bond issuances, and all other operational expenses will be financed through other revenue sources.

The authority's ability to issue its own bonds is not anticipated to

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

have a state fiscal impact because the bonds are not a statutory financial obligation of the state.

Section 11 exempts certain fuels used in vessels primarily engaged in interstate commerce from the Petroleum Products Gross Earnings Tax. This results in a revenue loss of less than \$50,000 annually.

Section 12 exempts from the motor vehicle fuels tax any fuel sold for use by any vessel either (1) primarily used in interstate commerce or (2) displacing more than 4,000 dead weight tons. This results in a revenue loss of up to \$125,000 annually beginning in FY 15.

Section 13 results in a cost beginning in FY 15 by establishing an Office of Maritime Development within the Department of Economic and Community Development (DECD) to promote and coordinate the operations of the authority. The fiscal impact is detailed below.

The provision requires the Governor to appoint an executive director of the office. Assuming that salary for this position would be similar to other executive level positions in DECD, the annual cost is \$150,326 (\$110,000 in salary and \$40,326 in fringes). It is anticipated that one administrative staff at a cost of \$69,697 (\$51,000 in salary and \$18,697 in fringe) would be required to support the executive director.

The bill requires the executive director to employ staff deemed necessary to efficiently and effectively run the office. To the extent that additional staff are required, there will be additional salary and related fringe costs incurred by DECD.

The bill requires the executive director (1) to develop a plan to eliminate and transfer the Office of Maritime Development into the authority and (2) submit a report on recommendations concerning the establishment of the authority by January 1, 2016. It is anticipated that the transition will occur on or after the reporting deadline at which time there will be savings incurred by DECD related to salary costs. Furthermore, it is anticipated that the salary costs would be funded through the authority's funds after the transition.

It is unclear under the bill whether the employees in the office will maintain state employee status once transitioned into the authority. If the employees maintain state employee status, there will be no savings in the fringe costs associated with the transition.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. It is anticipated that the salary costs to DECD will continue until the Office of Maritime Development transitions into the authority. It is unclear if there will be any state savings in fringe benefit costs associated with the transition.

OLR Bill Analysis**sHB 5575*****AN ACT CONCERNING PROMOTION OF THE COMMERCIAL USE OF THE STATE'S DEEP WATER PORTS.*****SUMMARY:**

This bill creates the Connecticut Port Authority (authority) as a quasi-public agency to coordinate development of state ports. The authority must:

1. coordinate port development, focusing on private and public investments,
2. pursue state and federal funding for dredging and other infrastructure improvements to increase movement of cargo through the ports,
3. market the ports' advantages to domestic and foreign shippers,
4. coordinate the planning and funding of capital projects promoting the ports' development, and
5. develop strategic entrepreneurial initiatives that may be available to the state.

The state's three deep-water ports are in Bridgeport, New Haven, and New London. Currently, local port authorities plan, develop, and manage these ports (see BACKGROUND). A state maritime office in the Department of Transportation (DOT) is responsible for maritime operations, including operating the state pier in New London, serves as the governor's principal maritime policy advisor, and staffs the Connecticut Maritime Commission. This commission advises the governor and legislature on state maritime policy and operations and supports development of the ports.

The bill eliminates the Maritime Commission. It requires the authority, instead of the commission, to recommend harbor improvement projects to the DOT commissioner (§§ 9-10 and 14).

It creates an Office of Maritime Development in the Department of Economic and Community Development (DECD) to promote and coordinate authority operations with other state agencies. The office, which is in DECD for administrative purposes only, must eventually terminate, moving its functions and those of DOT and the Maritime Commission to the authority.

It exempts from the (1) petroleum products gross earnings tax, certain fuels used in ships primarily engaged in interstate commerce and (2) state motor vehicle fuels tax, fuel used by ships (a) primarily engaged in interstate commerce or (b) displacing more than 4,000 deadweight tons.

EFFECTIVE DATE: July 1, 2016, except for the (1) creation of the Office of Maritime Development, which is effective July 1, 2014, and (2) fuel tax exemptions, which are effective upon passage.

§§ 1, 2, & 5-8 — PORT AUTHORITY AS A QUASI-PUBLIC AGENCY

Under the bill, the authority is a body politic and corporate, a public instrumentality and political subdivision of the state, created to perform an essential public and governmental function. It is a quasi-public agency, not a state department, institution, or agency, and as such is subject to statutory procedural, operating, and reporting requirements for quasi-public agencies, including lobbying restrictions and an ethics code.

Under the bill, the authority may:

1. have perpetual succession and adopt bylaws;
2. adopt and modify an official seal;
3. hire assistants, agents, and other employees to carry out its purposes;

4. obtain insurance against liability or loss in connection with its property and other assets in amounts and from insurers as it deems desirable, and procure insurance for employees;
5. account for and audit authority funds and those of any recipients of authority funds; and
6. invest in, acquire, lease, purchase, own, manage, hold, and dispose of real property, including state pier real property under its control, and lease, convey, deal in, or enter into agreements with respect to the property on any terms necessary or incidental to carry out its purpose. Such transactions are not subject to approval, review, or regulation by any state agency, except that the authority cannot convey fee simple ownership (full ownership) in land under its jurisdiction and control without the approval of the State Properties Review Board and attorney general.

(Although the bill authorizes the authority to manage and dispose of state pier real property under its control, it does not explicitly transfer control of the state pier from DOT to the authority.)

Powers, Duties, and Responsibilities

In achieving its purposes, the authority has specific power to:

1. develop an organizational and management structure to best achieve its goals;
2. create a code of conduct for board members consistent with applicable law;
3. adopt rules, which are not considered regulations and therefore do not have to go through the regulatory approval process, to conduct its business;
4. receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied to carry out authority purposes, subject to the

- conditions of the grant or contribution, including gifts or grants from any federal or state department, agency, or instrumentality;
5. enter into agreements with any federal or state department, agency, office, or instrumentality, including the state treasurer's office;
 6. borrow money or secure credit on a temporary, short-term, interim, or long-term basis;
 7. issue bonds, bond anticipation notes, and other obligations, fund and refund them, provide for the rights of their holders, and secure them by pledging revenue, notes, and mortgages of others;
 8. employ, among others, a marketing manager experienced in (a) port market development and promotion and (b) working with vessel operators, railroads, and the shipping and trucking industries;
 9. set employee compensation, except for those subject to collective bargaining agreements;
 10. engage consultants and other independent professionals needed to carry out the authority's purposes and to provide technical assistance;
 11. maintain one or more offices;
 12. sue and be sued in its own name;
 13. mortgage its property to benefit the authority's bondholders;
 14. make and enter into contracts and agreements needed or incidental to its duties and powers, including granting leasehold interests, concession, access, and development rights and privileges, and supplier, vendor, contractor, and consultant contracts; and

15. do all things necessary or convenient to carry out its purposes under the bill and the law.

§§ 1-4 — BOARD OF DIRECTORS

The authority is governed by a 10-member board of directors, seven of whom are appointed, voting members, and three of whom serve ex-officio. The governor appoints all voting members who are initially serve staggered terms. Three members serve for two years and four serve for four years. One of the four-year members must live in Bridgeport, New Haven, or New London. Successor members are appointed by the governor to serve a four-year term, starting on July 1 in the year of their appointment. The seven appointees must have business and management experience and include people with experience or expertise in at least one of the following areas: (1) international trade, (2) marine transportation, (3) finance, or (4) economic development. The energy and environmental protection (DEEP), DOT, and DECD commissioners serve as nonvoting, ex-officio members.

Four directors constitute a quorum for the transaction of any business or exercise of any power. The board may act by a majority of the directors present at any meeting at which there is a quorum. The board may delegate to four or more directors necessary and proper powers and duties under the bill and the board's by-laws.

Appointed board members cannot designate someone to perform their duties for them. An appointed director who fails to attend three consecutive meetings or half of all meetings held in a calendar year is deemed to have resigned from the board. Any vacancy that occurs other than by the expiration of a term is filled in the same way as the original appointment for the remainder of the term.

Reimbursement and Conflicts of Interest

Each director is entitled to be reimbursed for actual and necessary expenses incurred performing his or her duties. Directors may be privately employed, or in a profession or business, subject to state and

federal ethics and conflict of interest laws, rules, and regulations. However, regardless of the law, it is not a conflict of interest for a trustee, director, partner, or officer of any person, firm, or corporation, or any person with a financial interest in such a person, firm, or corporation, to serve as a director, provided he or she abstains from deliberating, acting, or voting on a matter concerning the person, firm, or corporation.

Removal of Board Members

The appointing authority may remove a board member for inefficiency, neglect of duty, or misconduct in office. Before doing so, the appointing authority must give the director a copy of the charges against him or her and an opportunity for a hearing, no earlier than 10 days after notice, where the director may respond personally or through an attorney. When a director is removed, the appointing authority must file with the secretary of the state a complete statement of the charges against the director and the appointing authority's findings on the charges, along with a complete record of the proceedings.

Board Officers

The governor appoints the board chairperson, who must serve a four-year term. The board elects a vice-chairperson and other officers from its members. Vacancies among officers must be filled within 30 days in the same way as the original selection. The board must establish by-laws to govern its procedures, and appoint committees and advisory boards it finds convenient or necessary to conduct its business.

The initial board members may begin serving immediately on appointment, but cannot serve beyond the sixth Wednesday of the next regular legislative session, unless confirmed by the legislature according to law. All subsequent appointments must be made with legislative advice and consent according to law.

Board Procedures

The board must adopt written procedures to:

1. adopt an annual budget and plan of operations and require board approval before either can take effect;
2. hire, dismiss, promote, and pay authority employees, and require board approval before a position may be created or a vacancy filled;
3. develop an affirmative action policy;
4. acquire real and personal property and personal services, and require board approval for any non-budgeted expenditure of more than \$ 5,000;
5. contract for financial, legal, or other professional services, and require the authority to solicit proposals for these services at least once every three years;
6. award loans, grants, and other financial assistance, including developing eligibility criteria and an application process, and determining the role played by authority staff and directors; and
7. use surplus funds as authorized by the bill or law.

The authority continues as long as it has bonds or other outstanding obligations and until it is legally terminated. Upon its termination, all the authority's rights and properties pass to and become vested in the state.

Executive Director

The board must appoint an executive director as the authority's chief administrative officer. The executive director (1) is exempt from classified service and receives compensation set by the board, (2) serves at its pleasure, and (3) cannot be a board member. He or she must have extensive experience in developing and managing multi-use port operations.

The executive director directs and supervises administrative affairs and technical activities at the board's direction. He or she must approve all salaries, allowable expenses for the authority and its employees and consultants, and incidental authority expenses.

The executive director must attend all board meetings; keep a record of authority proceedings; and maintain and have custody of all books, documents, and papers filed with the authority, and the authority's minutes or journal and its official seal. He or she may have copies made of the minutes and records, and may use the authority's official seal to certify them as true copies on which people may rely. The executive director must perform other duties as the board directs.

Reporting Requirements

The board must report annually, by December 15, on its (1) activities, (2) operating and financial statements, and (3) legislative recommendations to the governor and Commerce, Environment, and Transportation committees.

It must submit to the Appropriations, Commerce, Environment, and Transportation committees a copy of each authority audit conducted by an independent auditing firm no later than seven days after receiving it.

§ 13 — OFFICE OF MARITIME DEVELOPMENT

The bill creates an Office of Maritime Development (office) within DECD for administrative purposes only (see BACKGROUND). The office must promote and coordinate authority operations in consultation with DOT and DEEP.

The governor, within available appropriations, and in consultation with DECD, DOT, and DEEP, must appoint an office executive director to manage its daily activities and duties. The office director must have experience in (1) the development and management of multi-use port operations, (2) international trade, (3) maritime transportation, (4) finance, and (5) economic development. Within available appropriations, the director must:

1. appoint, employ, and remove assistants, employees, and personnel needed to efficiently and effectively run the office;
2. develop a plan, presumably before January 1, 2016, to move the maritime functions of the DOT to the authority (see BACKGROUND);
3. review and recommend state policies that affect the ports;
4. coordinate state, regional, and local efforts to encourage the growth of the ports;
5. develop a plan, presumably before making recommendations to the governor and legislature, to eliminate the office and move its functions and those of the Connecticut Maritime Commission to the authority;
6. identify, together with DECD, DOT, and DEEP, qualified candidates for the authority board and executive director;
7. develop a plan on authority bonding powers; and
8. prepare and submit, by January 1, 2016, a report of activities, findings, and recommendations on the authority's establishment to the governor and the Commerce, Transportation, and Environment committees

§§ 11 & 12 — FUEL TAX EXEMPTIONS

The bill exempts from the petroleum products gross earnings tax, bunker fuel oil, intermediate fuel, marine diesel oil, and marine gas oil used in vessels primarily engaged in interstate commerce. The law already exempts these fuels when used in vessels displacing more than 4,000 dead weight tons. It exempts from the motor vehicle fuels tax any fuel sold for use by any vessel either (1) primarily used in interstate commerce or (2) displacing more than 4,000 dead weight tons.

BACKGROUND

Current Port Administration

Independent, locally created port authorities oversee the ports in Bridgeport, New Haven, and New London. No state or regional agency oversees local authority operation, but they operate under state statutes granting them broad powers to plan, finance, develop, and operate facilities in the locally designated port district (CGS §§ 7-329c to 329u). The current districts include privately owned and operated facilities, including docks and shipping terminals. New London's district includes the DOT-owned and managed state pier.

Connecticut Maritime Commission

By law, the commission, among other things, (1) advises the governor, transportation commissioner, and legislature on state maritime policy and operations; (2) develops and recommends a state maritime policy; (3) supports the development of the state's maritime commerce and industries, including its deep water ports; and (4) supports the development of the ports, including identifying new opportunities for them, analyzing the potential for and encouraging private investment in them, and recommending policies that support port operations. The commission is part of DOT (CGS § 13b-51a).

State Maritime Office

This DOT office is responsible for maritime operations, including the state pier in New London, serves as the governor's principal maritime policy advisor, and staffs the Connecticut Maritime Commission (CGS § 13b-51b).

Administrative Purposes Only

Agencies assigned to departments for administrative purposes only must: (1) exercise any quasi-judicial, rule-making, or regulatory authority, licensing, and policy-making functions which it may have independent of the department and without its approval or control; (2) prepare its budget, if any, and submit its budgetary requests through the department; and (3) hire its own personnel or enter into contracts, if authorized by law, or if the legislature provides or authorizes funds for these purposes (CGS § 4-38f).

Related Bill

sHB5289 (File 245), favorably reported by the Transportation Committee contains substantially the same provisions as this bill.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/25/2014)